

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>EVAN DAVID SMITH,</b>	)	
<b>Petitioner,</b>	)	<b>C.A. No. 21-234 Erie</b>
	)	
<b>v.</b>	)	<b>District Judge Susan Paradise Baxter</b>
	)	<b>Magistrate Judge Richard A. Lanzillo</b>
<b>WARDEN SCI FOREST, et al.,</b>	)	
<b>Respondents.</b>	)	

**MEMORANDUM ORDER**

On August 24, 2021, Petitioner Evan David Smith, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), initiated this action by filing a document entitled “Petition for Writ of Habeas Corpus, Redress of Grievance, and Arbitration [ECF No. 1-1], accompanied by a motion to proceed *in forma pauperis* [ECF No. 1]. The petition was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Because the allegations of the original petition were largely incoherent, and the type of relief sought was unclear, Magistrate Judge Lanzillo ordered Petitioner to file an amended pleading specifying whether he is seeking habeas corpus relief under 28 U.S.C. § 2254, or monetary relief for violation of his constitutional rights under 42 U.S.C. § 1983. [ECF No. 4]. In response, Petitioner filed a document entitled “Amended Petition for Redress of Grievance, Receiving the Bonds in the Name of the Trust, & Arbitration (Tort 42 U.S.C. § 1983).” [ECF No. 5-2]. In this document, as in his original pleading, Petitioner contends that he is “a divine, living, flesh & blood human being, created by Almighty God,” and has “never been nor will I be

a corporation.” Then, after making a series of disjointed statements regarding the state’s creation of an artificial legal entity called a “STRAW MAN,” through which the courts issue a STRAW bond, Petitioner concludes that the state only has the authority to incarcerate his straw man alter-ego, a “fiction ... made up to do transactions,” rather than his “flesh & blood” human form. (ECF No. 5-2, at 7-8).

On December 23, 2021, Petitioner filed a motion for summary judgment [ECF No. 8], reiterating his “STRAW MAN” arguments and requesting the entry of judgment in his favor.

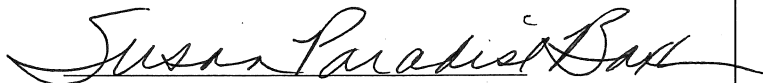
On March 2, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that Petitioner’s motion for summary judgment [ECF No. 8] be denied and that this action be dismissed as frivolous for failure to state a cognizable claim upon which relief may be granted, pursuant to 28 U.S.C. 1915(e). [ECF No. 11]. Petitioner has since filed objections to the R&R, which merely restate the arguments previously raised in his amended pleading and summary judgment motion. [ECF No. 13].

Thus, after *de novo* review of the petition and documents in this case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 12<sup>th</sup> day of April, 2022,

IT IS HEREBY ORDERED that Petitioner’s motion for summary judgment [ECF No. 8] is DENED and this action is DISMISSED as frivolous for failure to state a cognizable claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915(e). The report and recommendation of Magistrate Judge Lanzillo, dated March 2, 2022 [ECF No. 11], is adopted as the opinion of this Court. As there are no further matters pending before the Court relative to the

instant petition, the Clerk is directed to mark this case "CLOSED."

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
United States Magistrate Judge

All parties of record